

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Monday, June 20, 2005 at Westfield Town Hall. Members present included Patrick Miller, Dave Mueller, Bill Sanders, Cindy Spoljaric, and Craig Wood. Also present were Tom Higgins and Attorney Brian Zaiger.

The April and May minutes were reviewed; Mueller stated the Crouse name was misspelled.

Sanders pointed out the misspelling of Mueller's name in the April minutes.

Wood moved that the April and May minutes be approved as corrected.

Sanders seconded, and the motion passed unanimously.

OLD BUSINESS

0410-VS-031 Brunner: 20495 Horton Road – Michael and Lydia Brunner are the appellants requesting a Variance of Development Standard from WC 16-04-030-(B) 5 (a), Residential Districts, Agriculture/Single Family 1 (SF -1), Minimum Lot Frontage on Road, a minimum of two hundred fifty feet (250) to one hundred one feet (101).

Wood moved that the Findings of Fact established for 0410-VS-031 be approved as presented.

Mueller seconded, and the motion passed unanimously.

0505-VS-027 Ty and Becky Rinehart: 14601 Henderson Court: The Appellants are requesting a variance from WC: 16.04.030 (D) (6), reduction of Front Yard Building line setback from forty feet (40') to thirty feet (30').

Miller moved that Exhibit A be adopted as the Findings of Fact for 0505-VS-027.

Wood seconded, and the motion passed unanimously.

Miller reviewed the statement of purpose as well as the rules and procedures.

NEW BUSINESS

0506-SE-001: 800 East Main Street Roger Crim: The Appellant is requesting a Special Exception from the Westfield Washington Ordinance WC 16-04-050-(D)-(3) Local Business, to operate a temporary fruit stand – farmers market three days per week. The one (1.1) acre parcel is zoned Local Business (LB).

Mr. Roger Crim presented the details of the Special Exception request in order to run a farmer's market on his property in the parking lot. He stated there would be no building of any kind.

Wood asked what days are being considered.

Crim responded they would like to start on Tuesdays, 4:00 p.m. to 8:00 p.m. He stated in the future, they may look at adding Thursdays and finally in the future, Saturdays.

Miller reviewed the staff proposed conditions.

Crim agreed to all the conditions.

Sanders asked if this could be done for one season and then considered for renewal without repaying fees to come before the Board.

Crim agreed to this proposal.

Mueller asked about vermin control for the trash at the end of each “market” day.
Crim is prepared for this since they already run a food service in their establishment.

Wood asked about signage.

Crim has no plans for signage other than a banner on the opening day.

A Public Hearing opened at 7:10 p.m.

Mr. Robert Hart stated he has a land covenant dated in 1978 to go with the land forever that any assignment of that building or anyone who purchased the building, their business would be conducted inside the building.

Zaiger stated the Board of Zoning Appeals is not a party to the agreement and the Special Request could still be approved and that the contract Hart has is a civil matter between he and Crim.

The Public Hearing closed at 7:15 p.m.

Crim stated he had not seen the document mentioned by Hart and publicly asked for a copy of the document.

Mueller asked how long Crim had been at the current address.

Crim responded three years.

Wood moved to approve 0506-SE-01 as presented with the following conditions:

1. That Temporary Fruit Stand – Farmers Market will not operate past nine o’clock in the evening (9:00 pm);
2. That restroom facilities will be made available to participants at the Cool Creek Coffee – Antique Mall facility;
3. There will be no additional signage added to the site without appropriate permits being issued;
4. Consent from abutting property owners will be obtained and submitted to the Town of Westfield to address any excess parking if needed prior to the opening of the Temporary Fruit Stand – Farmers Market;
5. All outside civil legal issues will be addressed, and;
6. There will be an Administrative Staff Review of the findings in September, 2006.

Miller seconded, and the motion passed unanimously.

Miller moved that the Staff’s Findings of Fact be adopted.

Mueller seconded and the motion passed unanimously.

0506-VS-028: 159th Street and Towne Road: Towne Road Development: The Appellant is requesting a variance from the Westfield Washington Ordinance WC 16.04.003-(D)-(6) side yard setback. The Appellant is requesting to construct new residential structures with an aggregate setback of twenty four (24’) feet. The site is \pm one hundred eight (108.3) acres and zoned SF -2.

Higgins stated the situation is that Caito has not been before the final plat review for approval so he is asking for a variance that does not exist.

Mr. Jim Caito presented the details of the request for variance which is reduction of a side yard reduction from 12’

to 10' on all the lots except the corner lots.

Wood asked what the typical square footage of the units in the development will be.

Caito responded 2,600 to 2,800 square feet with the majority being two stories and probably 90% will have full basements.

Mueller asked what the average density is.

Higgins stated 146 lots on 129 acres.

Wood stated there were several red flags raised by staff.

Caito stated he would like to review each item with the Board.

Wood read the following from the staff report:

“There are numerous problems with a blanket variance involving an aggregate setback. The first, one side yard setback can fluctuate the numbers on a monumental basis. The second, with the rezoning of the site and the Appellant setting up the development standards, they were very aware of the limitations of the site. Third, the final platting of the site that is in process could address the setback issue without this variance. Fourth, the numerous cul-de-sacs lead to small side yard setbacks and some concentrations of pavement that would increase runoff. Fifth, the Town of Westfield has no mechanism to monitor the aggregate setbacks with any control. Finally, the thirty foot (30') side yard setback requirements would be completely ignored.

The Appellant changed the zoning, redesigned the entire site, and had multiple public hearings. Even with all these meetings to address the development requirements of the site the only rationale for this variance request can be economic. Staff has informed the Appellant that there is absolutely no hardship under the Westfield Washington Zoning Ordinance standards. Further, economic advancement is not a legal or appropriate rationale for any variance.”

Sanders stated that he is a member of the Advisory Plan Commission who recommended approval of the rezone and was assured that they had met with the subcommittee and everything was adequate to go ahead.

Caito feels that they were given bad advice and that this was the only way to get the variance.

Sanders stated the Commission went along believing everything was worked out and agreed upon.

Caito says they can live with the 12' set back, and they will still develop this land, but will build lesser homes on the site.

Wood expressed additional concerns stated in the Staff Report regarding:

1. The reduced setback does create public health or safety issues and does not uphold the “intent” of the SF - 2 provisions.
2. The appellant wishes to legally establish a variety of setbacks which will negatively impact the value of parcels abutting and in the area of the development.
3. There is no “Hardship” and the Appellant can follow the setback requirements.

Caito, regardless of what staff thinks, does not feel this project negatively impacts the value of parcels abutting and in the area of the development.

Wood feels there is room to redraw the plans to make it work and not have to come before the Board.

Caito feels with this variance, it will be a nicer subdivision.

A Public Hearing opened at 7:42 p.m.

Mr. Tom Peilmeyer, who lives on an adjacent property to this proposed development, expressed concerns of lesser property values in the area if the variance is not approved. He stated his belief that if one lot was eliminated over 100 feet would be gained and if the plans were redrawn, they would have all the land they would need.

The Public Hearing closed at 7:44 p.m.

Wood moved that 0506-VS-028 be denied as presented.

Sanders seconded, and the motion passed unanimously.

Miller moved to adopt the staff's findings of fact.

Mueller seconded, and the motion passed by voice vote.

0506-VS-029: 18707 Grassy Branch Road: James and Elizabeth Holcombe: The Appellants are requesting a variance from the Westfield Washington Ordinance WC 16.04.100 2 c (ii) Accessory Building section. The Appellants are requesting to construct a new accessory building (barn/stable) that would be constructed in front of the principal structure. The site is \pm seven (7.66) acres and zoned AG-SF1.

0506-VS-030: 18707 Grassy Branch Road: James and Elizabeth Holcombe: The Appellants are requesting a variance from the Westfield Washington Ordinance WC 16.04.030 B 1 Residential District section. The Appellants are requesting to construct a new accessory building (barn/stable) that would be constructed within two-hundred feet (200') of a side property line. The site is \pm seven (7.66) acres and zoned AG-SF1.

0506-VS-031: 18707 Grassy Branch Road: James and Elizabeth Holcombe: The Appellants are requesting a variance from the Westfield Washington Ordinance WC 16-04-100-(2)-(D) the maximum building height of eighteen (18') feet for an accessory building. The site is \pm seven (7.66) acres and zoned AG-SF1.

0506-VS-032: 18707 Grassy Branch Road: James and Elizabeth Holcombe: The Appellants are requesting a variance from the Westfield Washington Ordinance WC 16.04.100-(2)-(B)-(vi) accessory structures will not be constructed of similar materials as the residential structure. The site is \pm seven (7.66) acres and zoned AG-SF1.

Mr. James Holcombe presented the details of the four variance requests including constructing the stable in front of the dwelling, constructing the stable within 200 feet of the side property line, building height, and building materials.

Ms. Elizabeth Holcombe spoke regarding the riding stable and the horses and the additional reasons for having the smaller barn in the front including safety issues dealing with coyotes.

A Public Hearing opened at 8:00 p.m. on all four variances.

Mr. George Shaw spoke against building the barn in front of the dwelling.

The Public Hearing closed at 8:05 p.m.

Miller asked if the new smaller barn was approximately 100' back from where the existing barn is.

Holcombe responded yes, the new right of way goes approximately two inches past the existing barn toward the house.

The Public Hearing reopened.

Mrs. Shaw spoke against the variance request to build the barn in front of the dwelling.

The Public Hearing closed.

Miller moved to approve 0506-VS-029 and 0506-VS-030 per plans filed as presented with the following condition:

0506-VS-029

1. Only one curb cut or drive way will be allowed for the parcel.

Mueller seconded, and the motion passed unanimously.

Miller moved to adopt staff's Finding of Facts.

Spoljaric seconded, and the motion passed by voice vote.

Miller moved to approve 0506-VS-031 and 0506-VS-032 per plans filed as presented with the following conditions:

0506-VS-031

1. The barn structure will not exceed the height of the residential unit.

0506-VS-032

1. The barn structure will be buffer to the street with landscaping.

Mueller seconded, and the motion passed unanimously.

Miller moved to adopt staff's Finding of Facts.

Mueller seconded, and the motion passed by voice vote.

0506-VS-033: 18737 Joliet Road: William and Jennifer Conour: The Appellants are requesting a variance from the Westfield Washington Ordinance WC 16-04-100-(2)-(D) the maximum building height of eighteen feet (18') for an accessory building. The fourteen (14) acre parcel is zoned AG-SF1.

0506-VS-034: 18737 Joliet Road: William and Jennifer Conour: The Appellants are requesting a variance from the Westfield Washington Ordinance WC 16.04.100-(2)-b-(ii) Accessory Building sections. The Appellants are requesting to construct a new accessory building (barn/stable) that would be constructed prior to the residence on the fourteen (14) acre parcel that is zoned AG-SF1.

0506-VS-035: 18737 Joliet Road: William and Jennifer Conour: The Appellants are requesting a variance from the Westfield Washington Ordinance WC 16.04.100-(2)-(b)-(vii) that accessory building will be subordinate in height, width, length and bulk to the principle residential structure. The fourteen (14) acre parcel is zoned AG-SF1.

Mrs. Jennifer Conour presented the details of the variance requests, building height, building barn before dwelling, and accessory structure being subordinate to principle residence structure in height, width, length and bulk.

Miller confirmed this is a timing issue and that they are ultimately building a home on this 14 acre parcel.

Mueller asked for time estimate on when the house would be built.

Conour responded the time is really dependent on the sale of the current home.

Higgins stated the construction of the residential structure will commence within 18 months after the barn/stable issue.

Sanders asked about the materials on the outside of the barn/stable.

Conour responded, dark green with windows spaced every ten feet.

Mr. Robert Dale, Contractor, responded to questions regarding the building materials. He stated the barn/stable would have metal siding; windows are open shutter every 12 foot, shingle roof, three tab fiberglass shingle, with three dormers to give extra lighting and a softer feel. He also stated lighting will be soft, safety lighting.

Conour stated that as a condition of the variance, they have no problem stating they will build within two years, their only concern is they are not sure of the square footage of the house at this time.

A Public Hearing opened at 8:29 p.m. on all four variances.

No one spoke, and the Public Hearing closed at 8:30 p.m.

Discussion followed regarding the number of animals the Board would feel comfortable stipulating; it was decided nine horses and no boarding of horses.

Miller moved to approve 0506- VS-033, 0506-VS-034, and 0506-VS-035 per plans filed with the following conditions:

1. No boarding of other horses.
2. Less than or equal to nine horses.
3. Construction of a residence to commence within two years and a Certificate of Occupancy to be issued within three years.
4. Residence greater than or equal to 3,500 square feet.
5. Fiberglass and/or asphalt shingles.
6. Zero Candlelighting.

Sanders seconded, and the motion passed 3-2 (Wood, Mueller).

Miller moved to adopt staff's Findings of Fact on behalf of the voting majority.

Sanders seconded, and the motion passed by voice vote.

Higgins announced there will be no July BZA meeting.

The meeting adjourned at 8:50 p.m.

Chairman

Secretary